

**BEFORE THE STATE BOARD OF MEDIATION  
STATE OF MISSOURI**

INDEPENDENCE POWER & LIGHT EMPLOYEE'S	)	
HUMAN RELATIONS COMMITTEE,	)	
	)	
Petitioner,	)	
	)	
INTERNATIONAL BROTHERHOOD OF	)	
ELECTRICAL WORKERS, LOCAL UNION 53,	)	Public Case No. 78-024
	)	
vs.	)	
	)	
THE CITY OF INDEPENDENCE,	)	
	)	
Respondent.	)	

**JURISDICTIONAL STATEMENT**

This case appears before the State Board of Mediation upon the Independence Power and Light Department Employee's Human Relations Committee filing a petition for certification as public employee representative of certain employees of the city of Independence. On September 10, 1982 a hearing was held in Independence, Missouri, at which representatives of the Petitioner, Respondent, and Intervenor were present. The case was heard by State Board of Mediation Chairman Mary Gant, Employer Member William Hunker, and Employee Member Joseph Cointin. The State Board of Mediation is authorized to hear and decide issues concerning appropriate bargaining unit determinations by Section 105.525, RSMo 1978.

At the hearing the parties were given full opportunity to present evidence. The Board, after a careful review of the evidence, sets forth the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

The City's Power and Light Department employs approximately 200 persons. The management of the Power and Light Department is headed by Parley Banks, the

electric utility director; B.J. Barnett, deputy director and engineering/transmission and distribution manager; P.H. Hanson, power production manager; W.C. Alumbaugh, support services manager; S.A. Wittig, administrative manager; and B.L. Valentine, economic planning and rate manager. Mr. Banks, the electric utility director, has as his immediate superior the City Manager of the City of Independence. The City Manager in turn is responsible and answerable to the City Council. There are five (5) departments or divisions of the Power and Light Department over which Messers. Barnett, Hanson, Alumbaugh, Wittig, and Valentine are responsible. The Departments or divisions are: 1) engineering/transmission and distribution, 2) production, 3) support services, 4) administration, and 5) economic planning and rates, respectively. The positions in dispute between the City and the HRC are found in the department or division known as transmission and distribution over which Mr. Barnett is responsible.

Crew Leader Working: The crew leader working position is held by seven (7) persons. These positions are located within the line construction and maintenance section of the transmission and distribution division of the Department. The persons occupying these positions are answerable to a senior line superintendent, Dave Ferguson, a line superintendent, Wes Corlett, in addition to the T & D manager, Mr. Barnett, and the utility director, Mr. Banks. Additionally, they will occasionally receive the supervision and direction of an electrical engineer.

The persons occupying the position of crew leader working are journeymen linemen and act as foreman of a crew of journeymen linemen, each crew consisting of three (3) men, including the foreman. Persons occupying the position perform the same jobs and duties as the journeymen linemen in their crew. Should a crew leader, working, be absent from work, a journeyman lineman takes his place. When crews are doubled up by reason of a storm or an emergency, the crew leader working assigned to the specific job becomes foreman of the crew while the other crew leader working becomes in essence, a journeyman lineman.

The crew leaders working cannot give or grant vacation time, sick leave time, or time off from employment to members of their crew and must themselves obtain authorization to take such leave. The crew leaders have no authority to hire or effectively recommend the hiring of persons for their crew. They likewise cannot reprimand, discipline, discharge, or transfer members of their crew and have no effective recommendation with respect to such actions. They have no authority to give or grant promotions and cannot effectively recommend promotions or pay raises for members of their crew.

The crew leaders have some input by means of periodic evaluations of the members of their crew, but the recommendations in these areas are not dispositive. The crew leaders do not direct or assign the work force, but merely supervise the activities of their crew and actively engage in such activities with their crew members. Their crew is directed and assigned, customarily, by the senior line superintendent, Mr. Ferguson. On a typical day, the crew leader will get his job order from Mr. Ferguson who directs the crew with respect to the location and type of work to be performed on that date. The equipment, materials and supplies necessary for the performance of that work are requested and requisitioned by Mr. Ferguson and not by the crew leaders. The warehouse then makes such materials available. After the job order is received, the crew loads the materials and proceeds to the location of their assigned work. Upon arrival at the location, a discussion is had between the crew leader and the members of his crew; this is referred to as a "tailgate" discussion. Such discussion is a mutual discussion between the crew leader and the members of his crew in which they more or less lay out the job, how they are going to do it, approach it, and then perform the work. Thereafter, the crew leader engages in the same activities as the members of his crew, including digging holes, setting poles, climbing poles and all other factors of line work.

The crew leaders must call in from the field to obtain authorization to perform various tasks in the field. Such authorization is needed to change taps, de-energize lines, to obtain switching orders, and to change parts.

The crew leaders do not participate in policy making decisions with respect to the organization, operation, and direction of the Department and cannot make effective recommendations in this respect.

Tree Trimming Crew Leader Working: The tree trimming crew leader working position is held by four (4) persons. These positions are located within the tree trimming section of the transmission and distribution division of the Department. The persons occupying these positions are answerable to the tree trimming superintendent, Wayne LaRue, the senior line superintendent, Dave Ferguson, in addition to the T & D manager, Bob Barnett, and the utility director, Mr. Banks. The persons occupying this position are journeymen tree trimmers, as are the members of the crew, which consists of three (3) men including the crew leader. Persons occupying the tree trimming crew leader working position perform the same tasks and duties as the journeymen tree trimmers and their crew. Should a crew leader be absent from work, a journeyman tree trimmer takes his place or other arrangements are made.

The tree trimming crew leaders working cannot give or grant vacation time, sick time, or time off from employment to the members of the crew and must themselves obtain authorization to take such leave. These crew leaders have no authority to hire or effectively recommend the hiring of persons for their crew. They likewise cannot reprimand, discipline, discharge, or transfer members of their crew and have no effective recommendation with respect to such actions. The authority to undertake, initiate, or recommend such action is vested in the tree trimming superintendent, Wayne LaRue. The tree trimming crew leaders have no authority to give or grant promotions and cannot effectively recommend promotions or pay raises for members of their crew.

These crew leaders do not direct or assign the work force, but merely supervise the activities of their crew and actively engage in such activities with their crew members. The crew is directed and assigned, customarily by Wayne LaRue, the tree trimming superintendent, or Mr. Ferguson, senior line superintendent. On a typical day, the crew leader will get his job order from either Mr. Ferguson or Mr. LaRue. This job order consists of a document containing the location, place and the work to be done. The tree trimming crew leader working and his crew are expected to do the work assigned to them on the day of its assignment by either Mr. Ferguson or Mr. LaRue. The crew leader has no authority to change orders or assignments once they are given and must perform that work even if they feel their work is needed elsewhere.

The crew leaders do not participate in policy making decisions with respect to the organization, operation and direction of the Department and cannot make effective recommendation in this respect.

Substation Foreman Working: The substation foreman working position is held by one person. This position is located within the substation section of the transmission and distribution division of the Department. The substation section has two positions in it, that being the substation foreman working position and one journeyman lineman. The person occupying the position of substation foreman working is answerable to the senior line superintendent, Dave Ferguson, the line superintendent, Wes Corlett, the electrical engineer III, Rich Veatch, the T & D manager, Bob Barnett, and the utility director, Parley Banks.

The person occupying the position of substation foreman is a journeyman lineman and is the foreman of a crew of one (1) journeyman lineman in addition to the foreman. The duties and responsibilities of the person holding this position are to maintain the substations and perform maintenance and operations, including the repairs of all twelve (12) substations. Some of the more specific duties of the person occupying this position include turning reclosers off and matching the voltage for switching

operations. The person occupying this position works as a team with his employee with both participating in the maintenance and repair work undertaken.

The substation foreman cannot give or grant vacation time, sick leave time, or time off from employment to the singular member of his crew. He must himself obtain authorization to take such leave. This foreman has no authority to hire or effectively recommend the hiring of persons for his crew. He likewise cannot reprimand, discipline, discharge or transfer the one (1) person in his crew and has no effective recommendation with respect to such actions. He has no authority to give or grant promotions and cannot effectively recommend promotions or pay raises for the one (1) member of his crew.

The substation foreman does not direct or assign the work force but merely supervises the activities of his crew of one (1) and actively engages in such activities with his crew members. The crew, including the substation foreman, is directed and assigned by either Mr. Ferguson, the senior line superintendent, or Rick Veatch, electrical engineer III; time sheets of the fireman and his crew of one (1) must be reviewed and approved by Mr. Veatch.

Mr. Apgar, the substation foreman, does not participate in policy-making decisions with respect to the organization, operation and direction of the Department and cannot make effective recommendations in this respect.

Meter Foreman Working: The meter foreman working position is held by one (1) person. This position is located within the metering section of the transmission and distribution division of the Department. Mr. David Thatcher, the only person occupying this position, is answerable to Bob Barnett, T & D manager, who is his immediate supervisor. Mr. Thatcher is also answerable on occasion to Mr. Veatch, Mr. Wittig, administrative manager, and Mr. Banks, the utility director.

Mr. Thatcher has never hired, promoted, transferred, disciplined or discharged any employees and has no authority to do so. Mr. Barnett, Mr. Thatcher's immediate

supervisor, must approve vacation time although the employees of the metering section make their initial request to Mr. Thatcher. With respect to sick leave, the employees do call Mr. Thatcher and place their request through him.

Mr. Thatcher does all the work that people underneath him do, including clerical, maintenance work, testing meters, making new installations and the wiring of new meters. Mr. Thatcher has a desk at the plant and works in the field when he deems necessary.

### **CONCLUSIONS OF LAW**

The Independence Power and Light Employees' Human Relations Committee has petitioned to be certified as public employee representative of one bargaining unit consisting of the employees described in our Decision, to follow. The Respondent stipulates to the inclusion of these employees as part of the bargaining unit, with the exception of tree trimmer crew leader working, crew leader working, substation foreman working, and meter foreman working. Respondent contends these are supervisory positions and should be excluded as such. The issue before the Board is whether these contested positions are supervisory and should be excluded from the bargaining unit on that basis.

Supervisors have consistently been excluded by the Board from bargaining units of clearly non-supervisory employees. The Board utilizes a number of factors in determining whether an employee is a supervisor. The factors applicable here include: 1) number of employees supervised; 2) whether the supervisor is primarily supervising employees; 3) whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employees; 4) the authority to direct or assign the work force; and 5) authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employees. Western Missouri Public Employees, Local 1812, vs. Jackson County Department of Corrections, Public Case No. 90 (SBM 1977).

All four of the disputed positions in this case are similar in that these working supervisors do not have any authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of the employees they supervise. These working supervisors supervise only one to six employees. It is clear that these working supervisors are primarily supervising an activity or completion of an assigned task and not primarily the employees under them.

While the meter foreman working has some discretion as to whether he will join the employees under him in working in the field and also as to what jobs his group will take in what order, the other three working supervisors have no such discretion. The small number of employees in the work groups of these other three working supervisors is illustrative of the fact that these working supervisors spend practically all of their time working and very little, if indeed any, supervising the few workers in their groups.

It is clear to the Board that the positions of substation foreman working, tree trimmer crew leader working, and crew leader working are not supervisors under the standards we have set out in Western Missouri Public Employees, Local 1812, vs. Jackson County Department of Corrections, supra, and to exclude these working supervisors from the petitioned for bargaining unit would unreasonably and, we believe, unjustly deny them their right to representation.

As to the meter foreman working, we find his limited discretion in assigning tasks and equally limited discretion in joining in the work of his group insufficient to tip the scales on the side of management when weighed against his clear lack of supervisory status in the other factors discussed.

### **DECISION**

It is the decision of the State Board of Mediation that an appropriate bargaining unit is as follows:

"All employees of the City of Independence, Missouri, assigned to the Power and Light Department in the : Production Division, which includes



Operations Section, Power Plant Maintenance Section, Fuel Handling and Utility Maintenance Section, and the Electronics Technician, Pneumatics Technician, Warehouse Clerk and Storage and Lab Clerk of the Administration and General Section; Transmission and Distribution Division, which includes Dispatcher Section, Metering Section, including the Clerk I classification; Tree Trimming Section; Line Construction and Maintenance Section; Substation Section; Engineering Specialist and Draftsman and Estimators of the Systems Engineering Section; the Support Services Division, including the Stores Warehouse Section and Vehicle Maintenance Section; and the Meter Reading Section of the Administration Division; including the positions of Meter Reader I and Meter Reader II; excluding all other office and clerical employees, watchmen guards, professional employees, and supervisors."

### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the Chairman of the State Board of Mediation, or a designated agent thereof, among the employees in the unit found appropriate, as early as possible, but no later than sixty (60) days from the date below. The exact time and place will be set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations. In accordance with the Decision and Order of the Honorable Richard Sprinkle, Judge, in the case Hicks vs. Missouri State Board of Mediation, et al., case no. CV80-12131, Circuit Court of Jackson County, Missouri, said order entered April 5, 1982, eligible to vote are those in the unit who were employed as of April 5, 1982, including employees who did not work during that period because of vacation or illness. Ineligible to vote are those employees who resigned or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date. Those eligible to vote shall vote whether they desire to be represented for the purpose of exclusive representation by Petitioner, Independence Power and Light Employees' Human Relations Committee, or Intervenor, International Brotherhood of Electrical Workers, Local Union 53, or neither.

It is hereby ordered that the Respondent shall submit to the Chairman of the State Board of Mediation, as well as to the Petitioner, and Intervenor, within fourteen

(14) days from the date of receipt of this decision, an alphabetical list of the names and addresses of employees in the unit determined to be appropriate who were employed during the designated payroll period.

Signed this 24th day of November, 1982.

MISSOURI STATE BOARD OF MEDIATION

(SEAL)

/s/ Mary L. Gant  
Mary L. Gant, Chairman

/s/ Joseph Cointin  
Joseph Cointin, Employee Member

Concurs in part and dissents in part.

/s/ William Hunker  
William Hunker, Employer Member

## **DISSENT**

Crew Leader Working, Line Construction and Maintenance Section:

Service to the public and responsibility to taxpayers mandate efficient operations. In order to obtain efficient operations it is necessary to have good supervision of employees. Employees who work in the field with the seven crew leaders working should be and are supervised by them from time to time while working. In addition, an employee with supervisory authority should be present with other employees to make sure all safety rules are followed. The seven crew leaders working meet sufficient qualifications to be determined supervisors and should be excluded from the bargaining unit.

/s/ William Hunker  
William Hunker, Employer Member

(S E A L)